

1  
2  
3                   UNITED STATES DISTRICT COURT  
4                   WESTERN DISTRICT OF WASHINGTON  
5                   AT TACOMA

6 BECKY A. VINCENT,

7                   Plaintiff,

8                   v.

9 MICHAEL J. ASTRUE, Commissioner of  
10 Social Security

11                   Defendant.

Case No. C09-5213KLS

ORDER DENYING DEFENDANT'S  
MOTION TO ALTER THE JUDGMENT  
PURSUANT TO FRCP 59

12  
13         This matter comes before the Court on defendant's filing of a motion (Dkt. #16) to alter  
14 the judgment (Dkt. #14-#15) in this matter pursuant to Federal Rule of Civil Procedure ("Fed. R.  
15 Civ. P.") 59, disagreeing with the Court's stated bases for ordering that the matter be remanded  
16 for further administrative proceedings. See (Dkt. #14-#16). Specifically, defendant argues that  
17 the Court erred in finding the ALJ improperly evaluated the medical and lay witness evidence in  
18 the record, and recommends that instead it affirm the ALJ's decision.

19  
20         The plain language of Fed. R. Civ. P. 59, however, makes clear that it is applicable only  
21 in those cases in which a "trial" has been held. Such is not the case here. No trial was held in  
22 this matter, but rather the issues raised and argued by the parties were resolved on briefing. As  
23 such, defendant cannot bring such a motion challenging the Court's order and judgment in this  
24 matter. In addition, even if Fed. R. Civ. P. 59 were applicable, the Court finds no grounds for  
25 altering its judgment in this matter based on its careful review of the record. Lastly, the Court  
26 finds that the arguments defendant presents in his motion are not appropriate at this stage of the  
ORDER - 1

1 proceedings after the case has been closed, but rather, to the extent not done earlier, should have  
2 been presented during scheduled briefing.

3 Accordingly, defendant's motion to alter the judgment pursuant to Fed. R. Civ. P. 59(e)  
4 (Dkt. #16), hereby is DENIED. The Clerk is directed to send a copy of this order to counsel for  
5 plaintiff and counsel for defendants.

6 DATED this 25th day of January, 2010.  
7

8  
9  
10   
11 Karen L. Strombom  
12 United States Magistrate Judge  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26